

## **Frequently asked questions about Peer to Peer File Sharing.**

### **Q. What is Peer to Peer File Sharing or P2P?**

Peer to peer file sharing occurs over systems that “lack a dedicated, centralized infrastructure, but rather depend upon the voluntary participation of peers to contribute resources out of which the infrastructure is created.” (Stefan Saroiu, P. Krishna Gummadi, Steven D. Gribble, [A Measurement Study of Peer to Peer File Sharing Systems](#), available online at <http://www.cs.washington.edu/homes/gribble/papers/mmcn.pdf>.) Although there are many different peer to peer file sharing systems available, among them Napster, Grokster, Kazaa, and Morpheus, the main purpose of all peer to peer file sharing systems is to facilitate the storage and sharing of files among large groups of users (peers) connected to the Internet. (Alan Davidson, Associate Director, Center for Democracy and Technology, Testimony Before the House Committee on Government Reform, “Peer to Peer File Sharing Privacy and Security,” May 15, 2003, available online at <http://www.cdt.org/testimony/030515davidson.shtml>; Saroiu, Gummadi, and Gribble, [A Measurement Study of Peer to Peer File Sharing Systems](#).) Frequently, the files that are stored and shared are copies of audio recordings and movies. (Saroiu, Gummadi, and Gribble, [A Measurement Study of Peer to Peer File Sharing Systems](#).) It is important to note that while there may be legal uses for peer to peer file sharing systems, much, if not all, current use has come under legal scrutiny recently.

### **Q. File sharing doesn't hurt anyone, so what's the big deal?**

File sharing does hurt someone. When someone creates something, they own the creation. (U.S. Copyright Law, 17 U.S.C. §101 et seq.; 18 U.S.C. §2319, available online at <http://straylight.law.cornell.edu/uscode/>.) For music artists the creation is music, for actors the creation is a movie or television program, and for authors the creation may be a newspaper article, journal article, book or other document. By law, the owners of a creation have a right to control its use and its distribution. (Id.) By sharing files, you violate those rights.

Imagine that the creation is your car. As the owner, you have a right to control who uses your car and where your car goes. Perhaps you even use your car as a taxi to earn an income. Now imagine that while you are asleep or in class, someone you don't know comes along and takes your car and drives it to someone else's house. Imagine that person then takes your car and uses it to drive somewhere else, where yet another person uses it. And so on. All of these people are using your car, putting miles and wear on it, and they haven't reimbursed you for it and they've deprived you of the right to charge them for your taxi service. It doesn't see quite fair, does it? Essentially, this is what peer to peer file sharing

does to the artists who create the files you swap. Every song you share is one more person using that artist's taxi without permission and without paying for the service. It doesn't seem quite fair, does it?

Peer to peer file sharing is more than just unfair, it's illegal. Copyright law in the United States gives creators the right to protect their creations. To do this, they can sue individuals who illegally copy or distribute their work. Federal law also makes it a criminal offense to copy and distribute copyrighted works. (Cactus International, Peer-to-Peer File Sharing, 2003, available online at [http://www.turbonet.com/Peer to Peer File Sharing/peer to peer file sharing.htm](http://www.turbonet.com/Peer%20to%20Peer%20File%20Sharing/peer%20to%20peer%20file%20sharing.htm).) Individuals who violate this law could face up to three years in prison and \$250,000 in fines for a first offense. (*Id.*) Prosecutors with the United States Department of Justice indicate they have initiated a federal anti-piracy initiative which has resulted in 22 convictions for felony copyright infringement. (Ann Harrison, Network World Peer-to-Peer Newsletter, Sept. 11, 2003, available online at <http://www.nwfusion.com/newsletters/filesshare/2003/0908p2p2.html>.)

File sharing is also dangerous, for several reasons. First, many file sharing programs contain spyware or adware, which communicates information about the user, without the user's knowledge, to a remote location. (Alan Davidson, Associate Director, Center for Democracy and Technology, Testimony Before the House Committee on Government Reform, "Peer to Peer File Sharing Privacy and Security," May 15, 2003, available online at <http://www.cdt.org/testimony/030515davidson.shtml>) This information is usually used to target advertising to the user, but it could also be used for more nefarious purposes. Second, file sharing further exposes the user to the risks faced by other Internet users, such as malware in the form of viruses, worms and Trojan horses. (*Id.*) Finally, users who participate in file sharing may find that they inadvertently share more than just the music or movie files they intended to share. Some users have inadvertently shared items such as their check registers and tax returns. (*Id.*) At a time when identity theft is becoming more common, this is an extremely dangerous possibility.

**Q. What are copyright holders doing in response to P2P file sharing?**

Some copyright holders, most notably the RIAA or Recording Industry Association of America, have systematically begun suing individuals who engage in peer to peer file sharing for copyright infringement. Currently, the RIAA appears to be focusing their legal efforts on individuals who make 1,000 or more files available to share with others and who share popular music files. (Preston Gralla, File Sharing without the Fear, O'Reilly P2P, Oct. 17, 2003, available online at <http://www.openp2p.com/pub/a/p2p/2003/10/17/filessharing.html>.) However, nothing prohibits the RIAA or any other copyright holder, at any time, from using other criteria for selecting individuals to sue. (For more information, see the Joint Committee of the Higher Education & Entertainment Communities' August 7, 2003 report titled Background Discussion of Copyright Law and

Potential Liability for Students Engaged in P2P File Sharing on University Networks, which is available online at <http://www.acenet.edu/AM/Template.cfm?Section=Home&Template=/CM/ContentDisplay.cfm&ContentID=5357>.

**Q. Copyright holders aren't really coming after people like me, are they?**

Wrong. Anyone who violates copyright laws by illegally sharing or downloading files could face a lawsuit filed by the copyright owner, whether that is the RIAA or someone else. Presently, RIAA has served over 1300 subpoenas to Internet Service Providers (ISPs) in an effort to identify individuals who are sharing illegally. (Lisa Rein, Commentary: What's Real and Make-Believe with the RIAA Subpoenas?, O'Reilly P2P, Sept. 11, 2003, available online at [http://www.openp2p.com/pub/a/p2p/2003/09/11/riaa\\_subpoenas.html](http://www.openp2p.com/pub/a/p2p/2003/09/11/riaa_subpoenas.html).)

RIAA has also filed suit against 261 of those individuals identified through the earlier subpoenas. (*Id.*) No one appears to be immune from suit. Included among those sued are a 12 year old girl and a grandfather whose visiting grandchildren downloaded music. (Ann Harrison, "RIAA issues lawsuits, offers bogus amnesty for file traders," Network World Peer-to-Peer Newsletter, Aug. 7, 2003, available online at <http://www.nwfusion.com/newsletters/fileshare/2003/0915p2p1.html>.)

On October 1, 2004, the RIAA filed 762 new lawsuits in an effort to obtain the identity of individuals who distribute music files through P2P networks. Included among these lawsuits are 32 suits against individuals who used the university networks at their universities, including Kent State University, to download and share music files. As a result of earlier "John Doe" lawsuits used to obtain file-sharers' identities, the RIAA also sued 68 named defendants. This latest round of RIAA lawsuits brings the number of suits filed by RIAA to 5541 since September 2003.

**Q. So I get caught. How much could it really hurt me?**

Under federal law, copyright holders are entitled to damages from individuals who infringe upon their rights. Copyright holders, such as the RIAA, can seek damages of \$750 to \$150,000 for each illegal file. (Ann Harrison, "Are You Being Subpoenaed by the RIAA?," Network World Peer-to-Peer Newsletter, Aug. 7, 2003, available online at <http://www.nwfusion.com/newsletters/fileshare/2003/0804p2p2.html>.)

Illegal file sharing may also impact your university computer privileges. University computer resources may not be used to violate copyrights or to commit crimes. (See University rule [3359-11-10, Interim policy on access and acceptable use of university computer and informational resources](#).) Users who engage in such activities may be denied privileges or find their privileges removed. (*Id.*)

Such activities may also be viewed as student misconduct and subject the user to discipline. (See University rules [3359-41-02, Definition of student misconduct](#) and [3359-41-01, Disciplinary power of the university](#).)

**Q. Is there any way I can avoid being sued for P2P file sharing that violates copyright laws?**

Yes. Individuals who wish to avoid being sued should refrain from file sharing or downloading activities that violate others' copyrights. If you've participated in peer to peer file sharing in the past, stop. While some copyright holders, most notably the RIAA, once offered amnesty programs that allowed individuals to avoid being sued by deleting existing illegal files and discontinuing illegal activities, such programs have been discontinued. Therefore, currently, the best way to avoid being sued is to refrain from activities that violate others' rights.

**Q. What are the alternatives to illegal peer to peer file sharing?**

Many alternatives to illegal peer to peer file sharing exist. Among those alternatives are:

- <http://aolmusic.com/>
- <http://www.apple.com/itunes/>
- <http://www.bet.com/>
- <http://www.buymusic.com/>
- <http://catsmusic.com/>
- <http://collegeconcerts.com/>
- <http://cornercd.com/>
- <http://dimple.com/>
- <http://www.emusic.com/pitch.html>
- <http://exitosmusical.com/>
- <http://fullaudio.com>
- <http://fye.com/>
- <http://galleryofsound.com/>
- <http://latinoise.com/>
- <http://listen.com/>
- <http://www.mp3.com/>
- <http://www.mtv.com/>
- <http://www.napster.com/>
- <http://www.real.com/rhapsody/index.html>

(Mitch Bainwol, Chairman & CEO, Recording Industry Association of America, "Privacy and Piracy: the Paradox of Illegal File Sharing on Peer-to-Peer Networks and the Impact of Technology on the Entertainment Industry," Statement Before the Senate Permanent Subcommittee on Investigations Committee on Governmental Affairs, Sept. 30, 2004, available online at [http://www.riaa.com/news/newsletter/093003\\_2a.asp](http://www.riaa.com/news/newsletter/093003_2a.asp).)

**Q. So if I'm not downloading anything protected by copyright or if I am, but I pay for it through a service like one of those listed above and I use my personal credit card to pay for it, there's no problem, right?**

University employees should be mindful, even if they pay to download music, movies, or games, and they use a personal credit card to pay to download those items, of whether they are fulfilling their work commitment to the University. The University's current rule regarding computer use and access allows for some computer use that is incidental to their work, but their computer use is intended to benefit the educational mission of the University. To the extent that P2P file sharing and downloading does not do this, this use may be problematic.

### **Resources**

- [http://www.eff.org/IP/P2P/p2p\\_copyright\\_wp.php](http://www.eff.org/IP/P2P/p2p_copyright_wp.php)
- <http://www.openp2p.com/pub/a/p2p/2003/10/17/filessharing.html>
- [http://www.openp2p.com/pub/a/p2p/2003/09/11/riaa\\_supoenas.html](http://www.openp2p.com/pub/a/p2p/2003/09/11/riaa_supoenas.html)
- [http://www.turbonet.com/Peer to Peer File Sharing/peer to peer file sharing.htm](http://www.turbonet.com/Peer%20to%20Peer%20File%20Sharing/peer%20to%20peer%20file%20sharing.htm)
- <http://www.geocities.com/mdebruynne/FileSharing.html>
- <http://www.cdt.org/testimony/030515davidson.shtml>
- <http://danbricklin.com/p2p.htm>
- <http://www.pbs.org/cringely/pulpit/pulpit20021128.html>
- <http://www.nwfusion.com/newsletters/filesshare/2003/0908p2p2.html>
- <http://www.nwfusion.com/newsletters/filesshare/>
- <http://straylight.law.cornell.edu/uscode/>
- [http://www.riaa.com/news/newsletter/093003\\_2a.asp](http://www.riaa.com/news/newsletter/093003_2a.asp)
- <http://www.bestbuy.com/site/olspage.jsp?id=cat12077&categoryRep=cat02000&guideID=1059745667419&type=page&cmp=>